

REMARKS/ARGUMENTS

The present amendment is responsive to the Final Office Action dated August 4, 2009. A two-month extension of time extending the period of reply from November 4, 2009 up to and including January 4, 2009 is submitted herewith. A Request for Continued Examination is also submitted herewith.

Claims 1, 4-7, and 9-11 were pending in the application. Independent claim 1 is amended herein. No claims have been cancelled or added herein. Therefore, claims 1, 4-7, and 9-11 remain pending in the present application. Support for the amended claims can be found in Applicants' originally filed disclosure. No new matter has been added. Applicants set forth remarks relating to the Action below.

In the Action, the Examiner rejected claims 1, 5-7, and 9-11 under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. Pub. No. 2004/0220582 to *Keller* ("Keller"), and claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Keller. Independent claim 1 was previously amended in order to recite the particular configuration of the angled confronting surfaces of the baseplates of the orthopedic device corresponding to the angled forward surfaces of the apparatus for manipulating the orthopedic device. In the present Action, the Examiner asserted that Fig. 4 of Keller teaches each and every one of the limitations in claims 1, 5-7, and 9-11. Applicants have amended claim 1 herein to more clearly define the claimed invention.

Keller cannot be used to anticipate amended claim 1 because the cited reference does not disclose or suggest an apparatus having a distal end including top and bottom sets of first, second, and third forward surfaces configured to engage the first, second, and third confronting surfaces of the first and second baseplates of the orthopedic device, respectively. Applicants respectfully assert the apparatus of Keller has two

separate prosthesis holders 52 which can be spread apart from each other. Keller does not disclose or suggest an apparatus having a distal end integrally connected to top and bottom sets of first, second and third forward surfaces angled with respect to one another separated by a wedge portion having an angled top surface, a forward surface and an angled bottom surface. Thus, Keller cannot be used to anticipate amended claim 1. Claims 5-7 and 9-11 are also unanticipated, *inter alia*, their dependence from an unanticipated base claim.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: January 4, 2010

Respectfully submitted,

Electronic signature: /William

A. Di Bianca/

William A. Di Bianca

Registration No.: 58,653

LERNER, DAVID, LITTBENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicants